

EXHIBIT 77

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

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4 IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING, SALES MDL NO. 16-2738
5 PRACTICES, AND PRODUCTS LIABILITY (FLW) (LHG)
LITIGATION

6 -----

7 This Document Relates to All

Cases and Also to:	Case No.
8	1422-CC09326-03
Valerie Swann v. Johnson &	Division 10
9 Johnson, et al.,	

10 _____/

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ATTORNEYS EYES ONLY DESIGNATION

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FRIDAY, OCTOBER 1, 2021

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15 In-Person Stenographic Deposition of REBECCA
SMITH-BINDMAN, M.D., conducted at the La Meridian
16 Hotel, 333 Battery Street, San Francisco, California,
beginning at 9:40 a.m. Pacific Time, before Sandra
17 Bunch VanderPol, FAPR, RMR, CRR, CSR #3032

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23 GOLKOW LITIGATION SERVICES
877.370.3377 ph/917.591.5672
24 Deps@golkow.com
25

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Also Appearing Via Zoom: Christine Haas, Principal

Campus Counsel UCSF

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1 E X H I B I T S

2 Exhibit # Description Page

3 Exhibit 9 Amended Expert Report of Rebecca 18

Smith-Bindman, MD; 123 pages

4 Exhibit 10 Rule 26 Expert Report of Rebecca 19

Smith-Bindman, MD; 113 pages

5 Exhibit 11 Redline - Amended Expert Report of 19

Rebecca Smith-Bindman, MD;

6 206 pages

7 Exhibit 12 Exhibit A: Curriculum Vitae of 20

Rebecca Smith-Bindman, MD;

8 35 pages

9 Exhibit 13 Exhibit B: Scientific Literature 21

and Other Sources List; 29 pages

10 Exhibit 14 Exhibit C: Rebecca Smith-Bindman, 23

MD, Medical/Legal Testimony in

11 last 5 years; 2 pages

12 Exhibit 15 Updated and current Curriculum 21

Vitae of Rebecca Smith-Bindman, MD

13 (to be proved by Plaintiffs'

Counsel to court reporter)

14 Exhibit 16 Dropbox Production, multiple pages 25

15 Exhibit 17 2016 Cramer article titled, "The 162

Association Between Talc Use and

16 Ovarian Cancer," A Retrospective

Case-Control Study in Two US

17 States," published in

18 "Epidemiology"; 36 pages

19 Exhibit 18 2004 Mills publication titled, 162

"Perineal Talc Exposure and

20 Epithelial Ovarian Cancer Risk In

the Central Valley of California,"

21 published in "Cancer"; 7 pages

22 Exhibit 19 1997 Chang publication titled, 166

"Perineal Talc Exposure and Risk

23 of Ovarian Carcinoma"; 6 pages

24

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1 I N D E X

2 Examination by: Page

3 MR. ZELLERS 6

4 MS. O'DELL 202

5 MR. ZELLERS 226

6 --o0o--

7 E X H I B I T S

8 Exhibit # Description Page

9 Exhibit 1 Defendants Johnson & Johnson 7

Consumer Inc. And Johnson &

10 Johnson's First Set of Requests

for the Production of Documents to

Rebecca Smith-Bindman, MD; 7 pages

11 Exhibit 2 MDL Notice of Oral and Videotaped 9

Deposition of Rebecca

12 Smith-Bindman, MD and Duces Tecum;

9 pages

13 Exhibit 3 Defendants Johnson & Johnson and 9

Johnson & Johnson Consumer

14 Companies, Inc.'s Notice With

Subpoena Duces Tecum of Deposition

15 of Rebecca Smith-Bindman, MD;

7 pages

16 Exhibit 4 September 22, 2021 Production, 12

multiple documents

17 Exhibit 5 September 27, 2021 Production, 13

multiple documents

18 Exhibit 6 September 29, 2021 Production, 13

multiple documents

19 Exhibit 7 Unredacted Production; 10 pages 13

20 Exhibit 8 Dr. Smith-Bindman's Invoices, 17

dated June 2017 through September

21 2021, multiple pages

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1 E X H I B I T S

2 Exhibit # Description Page

3 Exhibit 20 1997 Cook publication titled, 167

"Perineal Powder Exposure and the

4 Risk of Ovarian Cancer," published

in "American Journal of

5 Epidemiology"; 7 pages

6 Exhibit 21 2000 Gertig article titled, 168

"Prospective Study of Talc Use and

7 Ovarian Cancer" published in the

"Journal of the National Cancer

8 Institute"; 4 pages

9 Exhibit 22 2021 Health Canada Screening 173

Assessment; 71 pages

10 Exhibit 23 O'Brien publication, "Association 202

of Powder Use in the Genital Area

11 With Risk of Ovarian Cancer,"

published in JAMA; 11 pages

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<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Friday, the 1st</p> <p>2 day of October, 2021, commencing at the hour of</p> <p>3 9:40 a.m. Pacific Time, conducted at the Le Meridian</p> <p>4 Hotel, 333 Battery Street, San Francisco, California,</p> <p>5 before me, Sandra Bunch VanderPol, a Certified</p> <p>6 Shorthand Reporter in and for the State of</p> <p>7 California, personally appeared.</p> <p>8 REBECCA SMITH-BINDMAN, M.D.,</p> <p>9 Expert witness herein, who, having been duly</p> <p>10 sworn, was thereupon examined and interrogated as</p> <p>11 hereinafter set forth.</p> <p>12 --o0o--</p> <p>13 THE REPORTER: Raise your right hand,</p> <p>14 please.</p> <p>15 Do you solemnly swear or affirm that the</p> <p>16 testimony you are about to give in this proceeding</p> <p>17 will be the truth, the whole truth, and nothing but</p> <p>18 the truth, so help you God?</p> <p>19 THE WITNESS: I do.</p> <p>20 EXAMINATION</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. Can you state your name for the record,</p> <p>23 please.</p> <p>24 A. Rebecca Smith-Bindman.</p> <p>25 Q. Dr. Smith-Bindman, my name is Michael</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And have you worked with counsel for the</p> <p>2 plaintiffs to respond to that request for production?</p> <p>3 A. Yes, I have.</p> <p>4 MS. O'DELL: I will just state for the</p> <p>5 record, we have worked with Dr. Smith-Bindman</p> <p>6 consistent with Judge Schneider's rulings in this</p> <p>7 case to produce all of the materials in her custody</p> <p>8 and control in response.</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. Dr. Smith-Bindman, you understand when I use</p> <p>11 the word "unpublished study," that we're referring to</p> <p>12 the study that's referenced in the request for</p> <p>13 production of documents that have been marked as</p> <p>14 Exhibit 1; correct?</p> <p>15 A. Yes.</p> <p>16 Q. Have you, to the best of your knowledge,</p> <p>17 produced all documents that are responsive to the</p> <p>18 request for production relating to your unpublished</p> <p>19 study?</p> <p>20 A. Yes.</p> <p>21 Q. Are there any additional documents that you</p> <p>22 believe need to be produced or may be produced at</p> <p>23 some later time?</p> <p>24 A. No.</p> <p>25 Q. Any other searches you need to make for</p>
<p style="text-align: right;">Page 7</p> <p>1 Zellers, and I am here today on behalf of the</p> <p>2 Johnson & Johnson defendants, both in the MDL talc</p> <p>3 ovarian cancer MDL proceeding and also for the</p> <p>4 Missouri State Court of Swann.</p> <p>5 I have got some questions for you. Any</p> <p>6 reason that we cannot proceed?</p> <p>7 A. No.</p> <p>8 (Exhibit No. 1 was marked.)</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. I have placed in front of you a number of</p> <p>11 documents, which are exhibits to this deposition. So</p> <p>12 what I would like to do with you at the outset is go</p> <p>13 through those documents and just ask you some</p> <p>14 questions and have you confirm what those documents</p> <p>15 are.</p> <p>16 Deposition Exhibit 1 is the request for</p> <p>17 production relating to your unpublished study; is</p> <p>18 that correct?</p> <p>19 A. Yes.</p> <p>20 Q. You will see that that document request --</p> <p>21 withdraw that.</p> <p>22 The deposition notice includes a document</p> <p>23 request, and you have seen that request for</p> <p>24 production before; correct?</p> <p>25 A. I have, yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 documents responsive to Deposition Exhibit 1?</p> <p>2 A. No.</p> <p>3 (Exhibit No. 2 was marked.)</p> <p>4 (Exhibit No. 3 was marked.)</p> <p>5 BY MR. ZELLERS:</p> <p>6 Q. Deposition Exhibit 2 is the MDL Notice of</p> <p>7 Deposition for today. And Deposition Exhibit 3 is</p> <p>8 the deposition notice in the Swann case; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Both Deposition Exhibit 2 and 3 request that</p> <p>12 you bring certain documents or produce certain</p> <p>13 documents in connection with this deposition. Do you</p> <p>14 see that?</p> <p>15 A. I do. I'm not sure that I saw the notice</p> <p>16 about the Swann case.</p> <p>17 Q. I received the notice of the Swann case</p> <p>18 yesterday evening. So --</p> <p>19 MS. O'DELL: I'm not sure I have seen the</p> <p>20 notice to the Swann case either. But there may be</p> <p>21 some objections on the requests. I need to make the</p> <p>22 objection on the record. I can do that now and you</p> <p>23 could ask Dr. Smith-Bindman questions.</p> <p>24 MR. ZELLERS: You are reserving all your</p> <p>25 rights to objections to the deposition notice, which</p>

<p>Page 154</p> <p>1 conducting discovery in a small number of potential 2 cases to go to trial? 3 A. I don't have a deep understanding, but I 4 know they are doing something like that. 5 Q. All right. Are you aware of any of the 6 specific plaintiffs or the names of any of the 7 plaintiffs that are in the smaller potential trial 8 pool? 9 A. I am not. 10 Q. Have you reviewed any medical records for 11 any of the plaintiffs in the pool of potential trial 12 cases? 13 A. I have not. 14 Q. Have you requested the opportunity to look 15 at any medical records of any of the plaintiffs in 16 the set of potential trial cases? 17 A. I have not. 18 Q. Are you aware of the types of ovarian 19 cancers that any of the plaintiffs in the pool of 20 potential trial cases have? 21 A. I believe I was told that there are 22 different kinds, but not -- but I don't know more 23 than that about the cases. 24 Q. Are you aware of any of the specific risk 25 factors that any of the plaintiffs in the pool of</p>	<p>Page 156</p> <p>1 opportunity for me to think about some of these 2 issues more, and I wanted to focus more broadly on 3 ovarian cancer, which is what I thought the 4 literature supported, and not focus quite as much on 5 serous. 6 I wanted to make it a more general opinion, 7 and so I thought the strongest way to support that 8 was to show the graph with all cancer types. 9 Q. And then you amended or changed your 10 conclusion -- and I'm looking now on page 65 of the 11 redline -- "New Systematic Meta-Analysis Review: 12 Summary." Do you see that? 13 A. Yes. 14 Q. You amended your conclusion to state: 15 (Reading) The results of the more 16 focused review of studies on 17 regular talcum powder use and 18 ovarian cancer risk were consistent 19 and indicate an approximate 20 43 percent increase in risk of 21 cancer related to routine talcum 22 powder exposure compared to no 23 exposure (end of reading). 24 Is that correct? 25 A. Yes.</p>
<p>Page 155</p> <p>1 potential trial cases have? 2 A. No. 3 Q. With respect to your -- or any amendments to 4 the systematic meta-analysis, in your updated or 5 amended MDL report, you removed the Forrest Plot that 6 showed the odds of ovarian cancer associated with 7 regular use of talcum powder products and invasive 8 serous cancer; is that right? 9 A. I believe that that is correct. 10 Q. Do you want to look at -- why don't you take 11 a look at the redline amended report, page 65. 12 A. Yes. 13 Q. Why did you delete that Forrest Plot from 14 your amended report? The Forrest Plot that -- 15 MS. O'DELL: I'm sorry. 16 MR. ZELLERS: Ms. O'Dell, page 65, 17 Deposition Exhibit 11, the redline expert report. 18 Q. The Forrest Plot dealt with invasive serous 19 cancer; correct? 20 A. Yes. 21 Q. You removed that from your amended report; 22 correct? 23 A. Yes. 24 Q. Why did you do that? 25 A. I wanted -- the amended report was an</p>	<p>Page 157</p> <p>1 Q. This 43 percent increase in risk, you're now 2 including all epithelial ovarian cancer subtypes, and 3 you've dropped the focus on invasive serous cancer; 4 is that right? 5 A. I think the 43 percent is in the figure that 6 was in both -- both versions of it. So I just 7 summarized -- I chose to highlight the 43 percent 8 increase in all cancer in this section rather than 9 the 50 percent increase in serous cancer. 10 Q. You agree that understanding ovarian cancer 11 histological types is important because the risk 12 factors, etiology and genetics of ovarian cancer, can 13 vary by histological type; is that right? 14 A. Yes. 15 Q. You agree that the importance of talcum 16 powder products as a risk factor or a cause can also 17 vary by type? 18 MS. O'DELL: Object to the form. 19 BY MR. ZELLERS: 20 Q. I'm reading from your report -- 21 A. Yes. 22 Q. -- your amended report, page 8? 23 A. Yes. 24 Q. And you agree that epidemiological studies 25 will have the greatest ability to document a clear</p>

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1 the original hard copy deposition exhibits; that we
2 will transmit electronic copies of all of the
3 exhibits to the court reporter, with the exception of
4 Exhibit 15, which is the amended -- or the updated CV
5 for Dr. Smith-Bindman. And, Ms. O'Dell, you will
6 communicate that to the court reporter?

7 MS. O'DELL: I sure will.

8 MR. ZELLERS: All right. Thank you.

9 (Whereupon, the deposition was concluded at
10 3:34 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, SANDRA BUNCH VANDER POL, a Certified
3 Shorthand Reporter, hereby certify that the witness
4 in the foregoing deposition was by me duly sworn to
5 tell the truth, the whole truth and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein stated, and that the testimony of
10 the said witness was thereafter reduced to
11 typewriting, by computer, under my direction and
12 supervision;

13 That before completion of the deposition,
14 review of the transcript was NOT requested. If
15 requested, any changes made by the deponent (and
16 provided to the reporter) during the period allowed
17 are appended hereto.

18 I further certify that I am not of counsel or
19 attorney for either or any of the parties to the said
20 deposition, nor in any way interested in the event of
21 this cause, and that I am not related to any of the
22 parties thereto.

23 DATED: October 11, 2021

24 _____
25 SANDRA BUNCH VANDER POL, CSR #3032